

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

THIS DOCUMENT RELATES TO ALL
CLASS ACTIONS

)
) MDL No. 1456
)

) CIVIL ACTION: 01-CV-12257-PBS
)

) Judge Patti B. Saris
)

) Chief Magistrate Judge Marianne B. Bowler
)

PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL

Plaintiffs, by their attorneys, respectfully move this Court for a leave to file (a) Plaintiffs' Reply Memorandum in Support of Class Certification; (b) Plaintiffs' Appendix of Summary Charts in Support of Class Certification; (c) Exhibits 1-2, 4-9 and 11 to the Declaration of Steve W. Berman in Support of Plaintiffs' Reply Memorandum in Support of Class Certification; (d) Rebuttal Declaration of Raymond S. Hartman in Support Plaintiffs' Motion for Class Certification; (e) Plaintiffs' Reply to Astrazeneca Pharmaceutical LP's Individual Memorandum in Opposition to Class Certification; (f) Exhibits 1-24 to the Declaration of Steve W. Berman in Support of Plaintiffs' Reply to Astrazeneca Pharmaceutical LP's Individual Memorandum in Opposition to for Class Certification; (g) Plaintiffs' Reply to Schering-Plough Group's Individual Memorandum in Opposition to Class Certification; (h) Exhibits 3-16 to the Declaration of Steve W. Berman in Support of Plaintiffs' Reply to Schering-Plough Group's Individual Memorandum in Opposition to Class Certification; (i) Plaintiffs' Reply to Bristol-Myers Squibb's Individual Memorandum in Opposition to Class Certification; (j) Exhibits 1-11

to the Declaration of Steve W. Berman in Support of Plaintiffs' Reply to Bristol-Myers Squibb's Individual Memorandum in Opposition to Class Certification; (k) Plaintiffs' Reply to Johnson & Johnson's Individual Memorandum in Opposition to Class Certification; (l) Exhibits 1-15 to the Declaration of Steve W. Berman In Support of Plaintiffs' Reply to Johnson & Johnson's Individual Memorandum in Opposition to Class Certification; (m) Declaration of Dr. Raymond S. Hartman in Rebuttal to Dr. Halbert L. White; (n) Class Plaintiffs' Memorandum in Support of Their Motion to Strike Declaration of Eric M. Gaier, Ph.D.; (o) Class Plaintiffs' Memorandum in Support of Their Motion To Strike Portions of the Declaration of Robert P. Navarro; (p) Class Plaintiffs' Memorandum in Support of Their Motion to Strike Portions of the Declaration of Steven J. Young; and (q) Exhibits 1-6 and 9-13 to the Declaration of Thomas M. Sobol in Support of Class Plaintiffs' Motions to Strike Declarations of Eric M. Gaier Ph.D., Robert P. Navarro, and Steve J. Young.

Throughout the above memoranda and declarations are documents and excerpts of those documents that have been identified by certain defendants as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" pursuant to the terms of the December 13, 2004 Protective Order. If the documents themselves are not quoted information derived from them is, which under the terms of the Protective Order requires that those portions be sealed. The materials not only quote extensively and/or attach such documents, but also include references to pricing data that defendants no doubt believe to be highly proprietary in nature. Paragraph 15 of the Protective Order mandates that any document or pleading containing such information be filed under seal. Plaintiffs hereby comply with the terms of the Protective Order. At this time, Plaintiffs' take no position as to whether the information so designated by defendants is in fact "CONFIDENTIAL" or HIGHLY CONFIDENTIAL and explicitly reserve their right to challenge such designations

in accordance with the terms of the Protective Order. Plaintiffs have no doubt however that to comply with the terms of the protective order these materials must be filed under seal.

WHEREFORE, Plaintiffs respectfully request that this Court grant them leave to file the above-listed documents under seal, and all other relief that this Court deems just and proper.

DATED: December 17, 2004.

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CERTIFICATE OF SERVICE

I hereby certify that I, Steve W. Berman, an attorney, caused a true and correct copy of the foregoing, **PLAINTIFFS' MOTION FOR LEAVE TO FILE UNDER SEAL** to be electronically filed with the Court pursuant to the December 16, 2005 Order and to be delivered to all counsel of record by electronic service pursuant to Paragraph 11 of the Case Management Order No. 2, by sending on December 17, 2004, a copy to Verilaw Technologies for Posting and notification to all parties

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